

HOUSE BILL 980

By Terry

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 211, relative to the creation of a solid
waste authority.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-211-902(1), is amended by inserting the language "and includes a joint authority created pursuant to § 68-211-903(a)(2)" immediately preceding the semi-colon at the end of the subdivision.

SECTION 2. Tennessee Code Annotated, Section 68-211-902, is amended by inserting the following as a new subdivision (3) and renumbering existing subdivision (3) and remaining subdivisions accordingly:

(3) "Collecting municipality" means a municipality that collects residential municipal waste within its boundary;

SECTION 3. Tennessee Code Annotated, Section 68-211-903, is amended by deleting subsection (a) and substituting instead the following:

(a)

(1) A county, any of the counties in a municipal solid waste region, or a collecting municipality may create a solid waste authority, by resolution of the respective county governing body or by ordinance of the respective municipal governing body; provided, that opportunity must be provided for public comment on the resolution or ordinance, as applicable.

(2) A municipality, the majority of the territory of which lies within a county that is creating or participating with other counties in creating an authority, may, in lieu of creating a separate authority under subdivision (a)(1),

join in creating a joint authority upon such terms as may be agreed upon and adopted by resolution of the respective county and municipal governing bodies, and an authority created by a county or collecting municipality may be converted to a joint authority by agreement of all participating counties and municipalities. If more than one (1) county or municipality participates in creating an authority, an agreement creating the authority must be approved by the governing body of each county and municipality that is a party to the agreement as part of the resolution creating the authority. The resolutions creating the authority may be amended by the agreement of all of the participating governments to add or subtract participating governments or to dissolve the authority.

(3) A creating resolution or ordinance, as applicable, must give the authority a name that identifies it with the county, region, or collecting municipality. This name must be used by the authority unless the name is amended by resolution or ordinance, as applicable, approved by a county, collecting municipality, or all participating counties and municipalities in the case of a joint authority. A resolution or ordinance creating, amending, or dissolving an authority created pursuant to this subsection (a) must be certified by the county clerk, municipal clerk, or recorder of the counties and municipalities participating in creating a joint authority, and sent to the secretary of state and the commissioner.

SECTION 4. Tennessee Code Annotated, Section 68-211-904, is amended by deleting subsection (a) and substituting instead the following:

(a)

(1) A resolution or ordinance creating or amending the resolution or

ordinance creating an authority for a county or collecting municipality, or approving an agreement to create a joint authority with other counties or municipalities, must provide for the establishment of a board of directors to administer the activities of the authority. The authority's board of directors may be the same board as that of the municipal solid waste region or it may be a separate board. If a board separate from that of the region is chosen, the board of directors must consist of an odd number, not less than five (5) nor more than fifteen (15) members.

(2) Each county and municipality that is a member of a joint authority must be represented by at least one (1) member on the board. The members of the board must be appointed by the county mayors and municipal mayors of the participating counties and municipalities, respectively, whose appointments must be approved by the respective county or municipal governing bodies. The members of the board shall serve for terms of six (6) years or until their successors are elected and are qualified by taking an oath of office, except that the initial board must have approximately one-third (1/3) of the members with terms of two (2) years and approximately one-third (1/3) of the members with terms of four (4) years, so as to stagger the terms of office.

SECTION 5. Tennessee Code Annotated, Section 68-211-906(a), is amended by deleting the first sentence and substituting instead the following:

Each solid waste authority created pursuant to this part is a public instrumentality of the county or municipal government or, in the case of a joint authority, the county and municipal governments participating in its creation or participating by agreement after its creation.

SECTION 6. Tennessee Code Annotated, Section 68-211-906(a)(1), is amended by

deleting the language "resolution or resolutions" and substituting instead the language "resolution or ordinance, or resolutions, in the case of a joint authority,".

SECTION 7. Tennessee Code Annotated, Section 68-211-906(a)(14), is amended by deleting the language "resolutions" and substituting instead the language "resolutions or ordinances".

SECTION 8. Tennessee Code Annotated, Section 68-211-907, is amended by deleting the section and substituting instead the following:

To the extent that a region's plan permits or to the extent authorized by ordinance of a collecting municipality, an authority may restrict access to its solid waste disposal facilities by excluding waste originating with persons or entities outside the region. An authority may regulate the flow of all municipal solid waste within the county, counties, or municipality constituting the authority. The authority may require the disposal of any transported waste at a specific solid waste disposal facility.

SECTION 9. Tennessee Code Annotated, Section 68-211-911(b), is amended by deleting the language "Any county or municipality that participates in the creation or organization of an authority" and substituting instead "A county or collecting municipality that creates an authority, or a county or municipality that participates in the creation or organization of a joint authority,".

SECTION 10. Tennessee Code Annotated, Section 68-211-918(b), is amended by deleting the language "The governing body of each county or municipality participating in the organization of the authority" and substituting instead "The governing body of a county or collecting municipality creating an authority, and the governing body of each county and municipality participating in the organization of a joint authority".

SECTION 11. Tennessee Code Annotated, Section 68-211-919, is amended by deleting the word "resolution" and substituting instead "resolution or ordinance".

SECTION 12. Tennessee Code Annotated, Section 68-211-920(a), is amended by deleting the word "resolution" and substituting instead the language "ordinance or resolution".

SECTION 13. Tennessee Code Annotated, Section 68-211-924, is amended by deleting the section and substituting instead the following:

(a) An authority may be dissolved by a resolution or ordinance approved by the county or municipal governing body, or by a resolution approved by all county and municipal governmental bodies participating in the organization of a joint authority, as applicable.

(b) A resolution to dissolve a joint authority must contain adequate provisions to divide the assets and liabilities of the authority among the participating county and municipal governments in an equitable manner if the authority has assets in excess of liabilities.

(c) If an authority has liabilities in excess of assets, the resolution or ordinance of dissolution must provide for the allocation of assets of the authority among the creditors of the authority by agreement between the creditors of the authority and the board of directors of the authority. If an agreement cannot be reached within ninety (90) days after the approval of the resolution or ordinance to dissolve the insolvent authority, then the board of directors of the authority shall petition the chancery court for an equitable allocation of assets. The chancery court shall hear the cause and shall enter a decree for the allocation of the assets of the authority among the authority's creditors.

(d) After the final disposition of the assets of an authority, the board of directors of the authority shall notify, in writing, the governing bodies of the county, collecting municipality, or participating governments, the secretary of state, and the department of environment and conservation of these actions, whereupon the board of

directors and the authority cease to exist.

SECTION 14. This act takes effect upon becoming a law, the public welfare requiring it.